



# ***Minnesota Wetland Conservation Act***

## **Stakeholder Input for Program Changes**

### **All Sector Meeting #1**

12:30 p.m.  
September 25, 2014

Cloquet Forestry Center  
175 University Road  
Cloquet, Minnesota

#### Meeting Notes

**Participants:** Ron Harnack, Mn Association of Watershed Districts; Steven Ring, Sierra Club; Dale Krystosek, BWSR; Todd Miller, Mn Rural Counties Caucus; Peter Miller, Aggregate Ready-Mix Association of Mn/Mn Asphalt Pavement Association; Larry Kramka, Iron Mining Association; Rich Staffon, MN Division Izaak Walton League; Josh Stromlund, Lake of the Woods County; Joe Winch, Essar Steel Mn; Brian Napstad, Aitkin County/Association of Minnesota Counties; Jill Bathke, Mn Center for Environmental Advocacy; Kathryn Hoffman, Mn Center for Environmental Advocacy/Mn Environmental Partnership; Frank Ongaro, Mining Mn; Wayne Brandt, Mn Forest Industries/Timber Producers Association; Keith Hanson, Mn Chamber of Commerce; Keith Carlson, Mn Inter-County Association; Dan Larson, MN Rural Counties Caucus; Rich Sve, Lake County/Northern Counties Land Use Coordinating Board; Ryan Siats, Cliffs Cleveland; Bob Meier, DNR; Jess Richards, DNR; Warren Formo, Mn Agriculture Water Resources Center; Doug Albin, MN Corn Growers Association; Joe Smentek, MN Soybean Growers Association; Rick Gitar, Fond du Lac Band of Lake Superior Chippewa; Colleen Allen, DNR; Lynda Peterson, BWSR; Sheila Vanney, Mn Association of Soil and Water Conservation Districts; Paul Eger, Mn Association Realtors; Mark Jacobson, Barr Engineering; Lori Andresen, Sierra Club; Bruce Kleven, Mn Wheat Growers Association; Jennifer Engstrom, DNR; Doug Norris, DNR; Tim Smith, U.S. Army Corps of Engineers; Les Lemm, BWSR; Dave Weirens, BWSR.

1. Call to Order/Introductions.  
Dave Weirens opened the meeting and everyone in attendance introduced themselves.
2. Background, goals of this process and today's meeting, and participant expectations.  
Dave Weirens and Les Lemm provided an overview of the purpose of today's meeting, the goals of the stakeholder process, the goals of today's meeting, the participation process and ground rules, and expectations of participants.

#### Discussion:

- Which agency would be implementing proposals by administrative action?
- Has the technical team been identified and are the individuals available on the website?

- Will a formal report be issued?
- If there is no consensus, will there be an opportunity for a minority report?
- There are a lot of issues on the table, is there a longer term strategy to addressing issues?
- Will the stakeholder group be developing details and bill language?

3. Overview of Input Received at Sector Meetings.

The input received at the individual sector meetings was reviewed.

4. Discuss and Identify Priorities for this Process.

Dave Weirens reviewed the process to be used to identify priorities that will guide the work of the stakeholder process. Each organization representative will have five “sticky” dots to place on the 22 issues.

Discussion:

- By placing a sticky dot does it mean you are in for or against the issue?
- The process is pretty ambiguous, it is not clear how the issues address the Executive Order, some of the issues would make it easier to drain wetlands, improving mitigation is spread across several issues, how do we make the connection between them?
- What are the agency priorities, why don't we work off agency priorities?
- This process is not the best strategy, we need to react to specific proposals.
- This is not a good use of our time if we don't know how these fit into legislation.
- We need background on each of the issues before we place our dots.
- This is useful, especially if a long-term work group is established.
- We should follow a two-step process; prioritize the categories, and then the issues.

Dave Weirens and Les Lemm reviewed the 22 issues.

5. Detailed Review/Discussion of Topics. The remainder of the meeting was spent reviewing and discussing proposed changes to the replacement wetland siting criteria – specifically:

- a) Adding a step within the siting criteria sequence requiring applicants to pursue replacement (mitigation) opportunities in established high priority areas before moving to the next step (statewide),
- b) the potential process for establishing priority areas, and
- c) the scale and criteria to be used for determining the priority areas.

Participant discussion and comments included the following:

- Legislative interest is in compensatory mitigation, we should focus on that.
- Why have priority areas at step #4 in the siting criteria? Why not at #2 (after minor watershed)?
- Going to a priority area should be step #1.
- The highest priority should be to keep wetland mitigation in the NE.

- When you remove wetlands from one watershed and replace them in another, you remove the benefits to that watershed.
- We should replace wetlands in watersheds that have few wetlands because they will be of higher value there than watersheds in which 97% wetlands remain.
- The goal should be to replace the functions and value lost in that watershed.
- If we broaden what can be done for mitigation in the NE, there will be more opportunities.
- If broadening eligibility of mitigation options, more mitigation will be done in the NE. Is the Corps on Board?
- Lake of the Woods County got included in the watershed (referring to BSAs 1 and 2 being treated the same regarding replacement ratios for mining mitigation), and we don't have a lot of farmland to lose.
- The fact that wetland mitigation is currently going outside the watershed is not a reason to keep doing it – we need to do a better job looking within the watershed.
- Applicants are already looking within the watershed in the NE and it is not working.
- We should have unique siting criteria that is applied to the NE.
- Proposed step #4 (priority area) is about getting quality wetlands where we want them. It should be step #1.
- Where do we want wetland restoration activities to occur (i.e. prairie pothole region)? Magnitude is also important – when trying to restore ½ acre at a time, it is a problem for siting.
- If we can prioritize areas for wetland mitigation in the rest of the state, we should be able to do it within the NE as well.
- If we identify priorities, we should go there first.
- If a stream project is used for wetland replacement, how does that replace lost wetlands? It results in a net loss of acres.
- Don't make the process more complicated than it is now.
- What if proposed step #4 (priority areas) was a separate, stand-alone option, where applicants could choose to go there “or” to use the existing siting criteria? Then moving to a high priority area would be on the same level playing field as #1 and applicants could choose one or the other.
- Cost is not the only consideration for applicants. Surety and timing of decisions are often bigger drivers.
- Maybe we shouldn't have an increased replacement ratio when going to a priority area, even when outside the BSA.
- Our first goal should be to restore the ecological services we are removing within the watershed. We need to have a watershed focus. Wetlands provide a complex suite of ecological services – we need to focus on maintaining the wetland services that are being provided now.

- Look for funding and/or other ways to restore wetlands in the west and south, but focus mitigation in the watershed of impact.
- Keeping mitigation within the watershed is not just a policy issue, it's a scientific issue. The closer the better.
- Use science to identify what the function and value is within the watershed and compare to what you are proposing. Let science drive the policy.
- Regarding the proposed priority area establishment process, the idea of an interagency team makes me nervous – there should be an opportunity for people in the private sector to be involved. Have cross-disciplined people involved.
- There is a fine line between experts and interest groups – look for scientists, not interest groups.
- We still don't have consensus on the notion of priority areas.
- We need better information – there is a lot we don't know about existing conditions, resource needs of watersheds, etc. If we establish priority areas, we need a better inventory of wetlands and watershed needs in the state.
- There is a huge amount of State and Federal land in the NE, and since that is largely off the table, we are putting mitigation in a small area.
- Priority areas should be able to include public lands.
- The process should include a timeframe. For example, a recommendation provided to the BWSR Board within one year.
- There will be instances where we can't find opportunities in priority areas. The wetlands aren't being restored in these areas for a reason.
- If we identify priority areas, we need to incent them somehow – clean water dollars, etc.?
- We need to evaluate/consider the economic impact to the county.
- I'm OK with the concept of priority areas, but we need to first try not to get to that step if at all possible.
- We need to better identify wetland mitigation opportunities within the watershed.
- It takes time and effort to go through the siting criteria every time you need mitigation, even though it doesn't change. Consider this within the context of the whole siting issue.
- The Prairie Plan, the Migratory Waterfowl Plan, water quality concerns, etc. are all important components of determining priority areas.
- Groundwater should also be a factor in determining priority areas.
- Also consider the amount of prior wetland loss in counties/potential priority areas.
- But those areas (e.g. an area with <5% wetlands remaining) will be more expensive so don't make that as big of a consideration.

- Do not make it overly difficult to change or expand priority areas. Give BWSR the authority and let them review it every X years (i.e. 5-7) to see how its working, review new information, and change as needed.
- It's either a priority or its not, there should be no gradations of priority areas.
- I am more concerned with how the wetland is mitigated than where. Anywhere in the state where you can establish a good mitigation site, why not do it?
- Maybe the problem with the status quo isn't the "priority areas" issue, it's that quality sites/projects are not being chosen.
- The regulatory system puts the entire burden on the applicant, when it is the regulators that know what is needed. Have good siting criteria where we share the burden of finding sites.
- Wetland restorations are happening in other programs that act as competition for mitigation opportunities.
- The focus should be on 20-30 acre projects, then you're not taking up the whole farm.
- I'm not concerned with plotting on a map where the priority areas are – we should just describe what priority areas might look like. Identify the concept.
- We could look in a watershed approach; maybe use a river-basin broad perspective.
- Not being specific enough creates headaches – if you don't put a box on a map, you are setting up arguments and they take time.
- I don't oppose priority areas, but I don't think it's necessary. We need to work on the first ones on the list (siting criteria).
- Establish incentives to go to good areas – we can use different mechanisms.
- It is absolutely mandatory that we identify high priority areas. It is currently not working – the mitigation is already leaving the basin. We need to determine priority areas and get better mitigation in areas of need.
- I have no problem with having priority areas at step #4 in the siting criteria, but there would be significant opposition if it was higher.
- If you penalize project sponsors for going to a high priority area, they will stay closer and do a poor project.
- We don't have a thorough understanding of what's been lost and what services the wetlands provided, impaired waters, etc. If a particular project will cause a water to become impaired, then there definitely needs to be a penalty.
- Don't just look at where the impacts are, look at places that have lost the wetlands – what are the benefits of gaining wetlands in <50% areas?
- The environmental review process is not doing a good job in considering the cumulative amounts of wetlands lost in the NE to mining projects.
- What do ratios accomplish? They are basically penalties for things that are "less right." They also incent and dis-incent things. Decide what you intend them to do and set them accordingly.

## WCA Stakeholder - All Sector Meeting, September 25, 2014

- We're talking about ecological services and water quality, but the WCA rule talks about functions and values.
- We need to know what the purpose is of replacing in a priority area. If only doing one acre in a priority area, it may be pointless. An In-Lieu-Fee program could aggregate them.
- I'm confident the team can develop what truly are the priorities in the state for mitigation.
- What incentives are we willing to provide to implement the state's priorities?
- Legislatively, a focus on clean water would be an easier sell.
- But clean water is a stretch from what WCA is about – its functions and value.

### 6. Wrap-up and Next Steps

- The organizations not present will be given an opportunity to vote, and then the priorities will be shared with the Stakeholders.
- A Doodle poll will be sent out to schedule the next two meetings.
- The agenda for these meetings will be built around the Stakeholder priorities.